



Improving lives THROUGH  
supports and services  
THAT FOSTER self-determination.

# Proposed Changes to FY23 Provider POS Contract

**Wanda Crocker**  
**Director of Provider Relations**

# Purpose

- 👤 Review proposed changes to contract language.
- 👤 Combine questions gathered through this training with public comments due no later than January 31, 2022 and respond in posted Q&A format.

# General Changes

- 📍 Provider is now referenced as Contractor
- 📍 Division is now referenced as Department
- 📍 Updated links
- 📍 Updated numerical alignment with new language
- 📍 Removed double references
- 📍 Community RN changed to Residential RN
- 📍 Replace references to improvement plans, critical status and no growth/no referral with Corrective Action Plan

# Mandatory: 2.7 Affidavit of Work Authorization and Documentation

Pursuant to section 285.530, RSMo, if the contractor meets the section 285.525, RSMo definition of a “business entity” (<https://revisor.mo.gov/main/OneSection.aspx?section=285.525>), the contractor must affirm the contractor’s enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services requested herein.

- a. Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; and
- b. Provide to the Department the documentation required in the exhibit 1, titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company’s/individual’s enrollment and participation in the E-Verify federal work authorization program; and
- c. Submit to the Department a completed, notarized Affidavit of Work Authorization provided in the exhibit 1, titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

📍 Added updated E-Verify language and exhibit as required.

# Mandatory: 2.10 Anti-Discrimination Against Israel Act Contract Requirements

- 📍 2.10.1 If the contractor meets the definition of a company as defined in section 34.600, RSMo, and has ten or more employees, the contractor shall not engage in a boycott of goods or services from the State of Israel; from companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or from persons or entities doing business in the State of Israel as defined in section 34.600, RSMo.
- 📍 2.10.2 If the contractor meets the definition of a company as defined in section 34.600, RSMo, and the company's employees increases to ten or more during the life of the contract, then the contractor shall submit to the Department a completed Box C of the exhibit 3, titled, Anti-Discrimination Against Israel Act Certification, and shall comply with the requirements of Box C.
- 📍 2.10.3 If during the life of the contract, the contractor's business status changes to become a company as defined in section 34.600, RSMo, and the company has ten or more employees, then the contractor shall comply with, complete, and submit to the Department a completed Box C of the exhibit 3, titled, Anti-Discrimination Against Israel Act Certification.
- 📍 Added new language and exhibit for Anti-Discrimination Against Israel language. Mandatory for all contracts that will have monies paid over 100,000 for the life of the contract.

# Proposed 2.8.2 and 2.8.3

## Current

CIMOR

## Revised

Division of DD Information System (CIMOR and other identified systems)

# Proposed 3.2.5

## Current

The provider shall not subcontract for the provision of waived services unless the provider is designated by the Department as an Organized Health Care Delivery System (OHCDS) and is in compliance with 42 CFR, Part 434 and 45 CFR, Part 74, unless approved by the Department for the utilization of short-term temporary entities for the provision of direct care and Registered Nurse staff.

## Revised

The contractor shall not subcontract for the provision of waived services unless the contractor is designated by the (OHCDS) and is in compliance with 42 CFR, Part 434 and 45 CFR, Part 74, unless notified by the Department for the utilization of short-term temporary entities for the provision of direct care and nursing staff operating in a direct service capacity. *This Section 3.2.5 does not apply to shared living services or residential RN oversight services.*

- a. The contractor shall submit requests to the primary *Vendor Service Coordinator* for processing.

# Proposed 3.3.4

## Current

The provider may decline to provide services to a consumer for any reason within ten (10) calendars days after the service authorization is issued by notifying the RO, in writing, of such decision to decline.

## Revised

The contractor may decline to provide services to a consumer for any reason within ten (10) calendar days after the service authorization is issued prior to service implementation by submitting notice to the Department *through the contractor notification portal*.

# Proposed 3.3.5

## Current

The provider shall not terminate services to a consumer without thirty (30) days prior written notice to the consumer, Support Coordinator, and RO, unless an earlier date is mutually agreed upon.

## Revised

The contractor shall not terminate services to a consumer without thirty (30) days prior notice to both *the consumer and to the Department*, unless an earlier date is mutually agreed upon *by the contractor, the Department, and the consumer*. *Notice to the consumer shall be in writing. Notice to the Department shall occur through the contractor notification portal.*

# Proposed 3.4.7

## Current

The provider shall notify the RO immediately if the Professional Manager position becomes vacant or if, for any reason, Professional Manager Oversight services cannot be provided.

## Revised

The contractor shall notify the RO immediately if the Professional Manager Service component is interrupted.

# Proposed 3.4.9

## Current

All staff providing residential or day habilitation, out-of-home respite, or agency-based personal assistance services shall have completed training in preventing, detecting, and reporting of abuse/neglect, prior to providing direct care, and shall repeat the training every two (2) years.

## Revised

Any director, supervisor, or employee of a contractor shall have completed training in preventing, detecting, and reporting of abuse/neglect prior to having contact with a consumer, and shall repeat the training every two (2) years. Employee is defined as a person employed by or contracted by an agency or a person serving as a volunteer or student for the agency.

The following services are exempt from this requirement: Environmental Accessibility Adaptation, Assistive Technology not related to the remote supports monitoring component, Specialized Medical Equipment and Dental.

# Proposed 3.4.10

## Current

Staff must also have current certification in a competency based CPR and First Aid course.

- a. Staff may provide direct care while obtaining required CPR/First Aid, Emergency Intervention, Medication Administration training as long as there is one fully trained staff on duty during each shift at each service delivery location.

## Revised

*All direct support professionals, professional managers and nursing staff must have current certification in a competency based CPR and First Aid course, Emergency Intervention and Medication Administration.*

- a. Staff may provide direct care while obtaining required CPR/First Aid, Emergency Intervention, and Medication Administration training as long as there is one fully trained staff on duty during each shift at each service delivery location.

# Proposed 3.4.11

## New

a.

5) Relias Learning – a web-based learning management system designed for employment support professionals related to topics on delivering employment supports or services accessible at <https://modd-employmentsupport.training.reliaslearning.com/>

# Proposed 3.4.11

## Current

If the provider would like the opportunity to provide or develop internal staff training, an arrangement is in place wherein Maryville University will review and approve curriculum at no cost.

aa. In the event the provider wishes to provide internally developed training, a Training Curriculum Review Rubric is available on the Division of Developmental Disabilities website:  
<http://dmh.mo.gov/dd/progs/youthtransitionemploymentcoortools/resources.htmlb>

bb. A copy of the curriculum, qualifications of the trainers and a completed Training Curriculum Review Rubric must be submitted to the Director of Youth Transition and Employment.

cc. The Director of Youth Transition and Employment will submit the requested information to Maryville University for review.

dd. Correspondence will be sent to the provider advising if the curriculum is approved.

ee. If approved, this correspondence must be retained by the provider's Human Resource Manager (or equivalent)

ff. If approved, internally developed training curriculum can be provided for up to three (3) years from the date of approval before needing to be re-submitted for review.

## Revised

b. Contractor Developed In-Service Training:

1) For contractors wishing to develop their own training, the Training Curriculum Review Rubric must be completed and submitted to the Division of *Developmental Disabilities Director of Employment, DDmail@dmh.mo.gov.*

2) The Division of Developmental Disabilities will submit the completed rubric and supporting documentation to Maryville University.

3) If approved, developed training curriculum can be provided for up to three (3) years from the date of approval before needing to be re-submitted for review.

4) *Correspondence indicating that the training curriculum has been approved must be maintained by the requesting contractor.*

# Proposed 3.5.1

## Current

The provider shall document the provision of authorized services and consumer progress.

## Revised

The contractor shall document the provision of authorized services *implementation strategies associated with identified consumer needs, goals and consumer progress.*

# Proposed 3.5.2

## Current

Service records shall be provided to the Department, as requested, and shall include, but are not limited to the information listed below:

## Revised

Service records shall be provided to the Department, as requested, and shall include, but are not limited to *the information outlined in 13 CSR 70-3.030.*

# Proposed 3.5.2

## Current

- Service type and number of units provided
- Activity related to the personal plan
- Date of service and the start and end times
- Name of the staff person providing the service
- Name of the consumer receiving services
- Location where services were provided
- Signature and title of the program supervisor/provider
- Other information deemed necessary by Department

## Revised

Service records shall be provided to the Department, as requested, and shall include, but are not limited to *the information outlined in 13 CSR 70-3.030.*

# Proposed 3.6.10

## Current

b. If not a medical emergency, notify the RO and TCM provider of their concerns and intent to terminate services to the consumer. The residential provider shall not terminate services to a consumer without thirty (30) days prior written notice to the RO, unless an earlier date is mutually agreed upon

## Revised

b. If not a medical emergency, notify the RO and TCM provider of their concerns and intent to terminate services as referenced herein.

# Proposed 3.6.12

## Current

In the event the provider is providing residential services from a property or premises not owned by the provider, the provider shall secure a legally binding written agreement from the property owner (landlord) outlining the same rights and protections under local tenant law as any individual not receiving Home and Community-Based Services

## Revised

In the event the contractor is providing residential services from a property or premises owned by the contractor, the contractor shall provide a legally binding written agreement outlining the same rights and protections under local tenant law as any individual not receiving Home and Community-Based Services.

# Proposed 3.6.17

## New

As a provider of Intensive Therapeutic Residential Habilitation, contractor shall follow Category III staffing requirements as outlined above, or higher within the same rate structure if the needs of the individual are greater than Category III.

# Proposed 3.7.2

## Current

The provider and all RNs utilized by the provider shall participate in the Registered Nurse Oversight orientation training and any subsequent mandatory program update training(s).

- a. Within ninety (90) days of the contract effective date, the provider must complete the state-sponsored orientation training.
- b. Any RN(s) utilized by the provider must complete the state-sponsored orientation training within ninety (90) days of hire, whether employed by or contracted with the provider

## Revised

The contractor and all RNs utilized by the contractor shall participate in the Registered Nurse Oversight orientation training and any subsequent mandatory program update training(s).

- a. *Any contractor staff directly supervising the agency RN and/or the Developmental Disabilities Professional must complete the state-sponsored RN Oversight orientation training within ninety (90) days of hire, whether employed by or contracted with the contractor.*
- b. Any RN(s) utilized by the contractor must complete the state Registered Nurse Oversight orientation training within ninety (90) days of hire, whether employed by or contracted with the contractor.
- c. *Any RN(s) utilized by the contractor must complete a mandatory annual state-sponsored RN Oversight program training.*

# Proposed 3.7.3

## Current

Nursing oversight activities shall include, but are not limited to:

- a. regular monthly nursing functions specified by the Department for each consumer
- b. collaboration with designated Department staff in the implementation of statewide health and safety initiatives;
- c. review and analysis of event reports for medication errors and injuries as part of oversight; and
- d. completion of a Monthly Health Summary for each consumer

## Revised

Nursing oversight activities shall include, but are not limited to:

- a. regular monthly nursing functions specified by the Department for each consumer
- b. collaboration with designated Department staff in the implementation of statewide health and safety initiatives;
- c. review and analysis of event reports for medication errors and injuries as part of oversight; and
- d. completion of the monthly health summary *and specified nursing delegation documentation in the MO Health Risk Screening Tool (HRST) system for each consumer upon the contractor's initiation of the MO DD HRST process.*
- e. *function in the role of the Residential Health Risk Screening Tool (HRST) rater for each consumer upon the contractor's initiation of the MO DD HRST process.*

# Proposed 3.7.6 ISL

## Current

In the event the provider is providing Individualized Supported Living (ISL), a minimum of 1.25 hours per month, or other amount deemed necessary by the planning team and justified in the ISP, per consumer for ISL months RN Oversight services shall be authorized separate from ISL budget authorization.

b. A minimum of thirty (30) minutes per month must be provided to each individual.

## Revised

b. *A minimum of fifteen (15) hours per year shall be authorized. A minimum of thirty (30) minutes per month must be provided to each individual. The remaining time may be utilized as needed across the individual's plan year.*

# Proposed 3.7.7

## Current

The provider shall notify the RO immediately if the Registered Nurse Oversight position becomes vacant or if, for any reason, nursing oversight services cannot be provided.

- a. Upon such notification to the Department, the provider shall submit an interim plan which describes how nursing oversight needs will be met. Such interim plan shall be subject to Department approval and acceptance.
- b. In order to ensure the health and safety of consumers and the training/supervision needs of provider staff, the Department may require the utilization of a temporary nurse.

## Revised

The contractor shall notify the RO immediately if the requirements pertaining to RN Oversight cannot be met.

- a. Upon such notification to the Department, the contractor shall submit an interim plan which describes how nursing RN Oversight *requirements* will be met. Such interim plan shall be subject to Department *review*.
- b. In order to ensure the health and safety of consumers and the training/supervision needs of contractor staff, the Department may require the utilization of a temporary registered nurse *to meet the RN Oversight requirements*.

# Proposed 3.9.5

## Current

If the RO serves as payee, the contractor shall report quarterly, or more frequently if required by the RO, the account balance of each consumer. *Individual funds held by the provider, combined with funds held at the Regional Office, at no time shall jeopardize Medicaid eligibility.* The Regional Office may request excess funds be sent back to the Regional Office in order to maintain Medicaid eligibility.

## Revised

If the RO serves as payee, the contractor shall report quarterly, or more frequently if required by the RO, the account balance of each consumer. The Regional Office may request excess funds be sent back to the Regional Office in order to maintain Medicaid eligibility.

# Proposed 3.9.6

## Current

The contractor shall not purchase property from a consumer's personal spending account which will not provide meaningful benefit to the consumer.

a. Any consumer purchases totaling \$100 or more per day shall require prior written approval of the authorizing Representative Payee or designee

## Revised

a. Any consumer purchases totaling \$300 or more per day shall require prior written approval of the authorizing Representative Payee or designee.

# Proposed 3.12.2 & 3.12.3

## Current

The provider shall comply with the requirements and expectations specified in Attachment C, Division Directive 4.300, Behavioral Support Requirements – Restrictive Interventions, Restraint, and Seclusion Timeout, attached hereto.

a. The Department reserves the sole right to make updates, changes, additions, deletions or other specific modifications to Division Directive 4.300, with prior notice to the provider. Additionally, the Department reserves the right to make Division Directive 4.300, and any updates thereof, available to the provider in an online format.

## Revised & New

- The contractor shall comply with the requirements and expectations specified in 9 CSR 45 3.090, *Behavior Supports*.
- *The contractor shall attend Behavior Support Review Committee reviews when identified by the Department as necessary for consumer health and safety.*

# Proposed 3.13.1

## Current

The contractor shall not implement audio and/or video surveillance in the interior of service sites without written permission from the Department, unless the audio/video equipment is approved and funded by the Department through remote supports.

## Revised

- The contractor shall not implement audio and/or video surveillance in the interior of service sites *where consumers are present and receiving a paid service* without written permission from the Department.

# Proposed 3.13.2

## Current

unless the audio/video equipment is approved and funded by the Department through remote supports.

## Revised

- *Audio/video equipment approved and funded by the Department through Assistive Technology/ remote supports and if necessary reviewed through due process is not surveillance.*

# Removed 3.14

In the event the provider is licensed, certified or accredited for services provided under this contract, the provider shall develop and submit an annual plan to the Division when trends are identified through the annual information management systems data and/or the provider has been on an Improvement Plan, Critical Status Plan, No Growth or No Referral status in the last twelve (12) months. The annual plan shall include an agency overview, internal assessment as well as information available from the Division various information management systems. With this information, the provider shall develop outcome-based goals designed to promote quality improvement for the upcoming year.

The plan shall be forwarded to the appropriate Regional Office within 30 days of the mutually agreed upon due date.

# Proposed 4.2.7

## New

The contractor may meet with the Department's Division Director or Designee to appeal the contract termination.

- a. The contractor must notify the Department's Division Director or Designee within seven (7) business days of the date on the termination letter. The appeal shall include the following:
  - 1) The name of the contractor;
  - 2) The name and contact information of the person requesting the appeal;
  - 3) The reasons for appealing the contract termination; and
  - 4) Any documentation that supports the contractor's position
- b. The meeting shall take place within seven (7) business days from the date of the request.
- c. Within seven (7) business days of the meeting, the Division Director or Designee shall make a final determination as to whether the contract termination remains in effect. The contractor shall be notified of this decision by regular and certified mail.
- d. The decision of the Division Director or Designee shall be the final decision of the Department.

# Proposed 4.8.2

## Current

Funding for the contract must be appropriated by the Missouri General Assembly for each fiscal year included within the contract period. Therefore, the contract shall not be binding upon the Department for any period in which funds have not been appropriated, and the Department shall not be liable for any damages or costs, including attorney's fees, associated with termination caused by lack of appropriations.

- a. The Department reserves the right to terminate the contract, without penalty or termination costs, if such funds are not appropriated or available.
- b. In the event funds are not appropriated or available for the contract, the Department shall provide prompt notification to the contractor
- c. In the event funding for the contract becomes unavailable or interrupted, the contractor shall, upon written notification from the Department, suspend work activities and incur no further costs under the contract, until such time as the Department notifies the contractor, in writing, that funding has been restored and work activities may resume.
- d. In the event funds are not appropriated or available for the contract, the contractor shall not prohibit or limit the Department's right to pursue alternate contracts, as necessary, to conduct state governmental affairs
- e. The provisions of the above paragraphs shall apply to any amendment or the execution of any option to extend the contract.

## Revised

The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

# Proposed 4.17.2.b

## Current

Special conditions or restrictions may include, but are not limited to:

- 1) Requiring the contractor to obtain additional technical assistance;
- 2) Requiring additional levels of prior approval from the Department for contract activities;
- 3) Requiring additional or more detailed financial reports and/or other documentation;
- 4) Additional, ongoing contract monitoring/oversight by the Department; and/or
- 5) Requiring the submission and implementation of a corrective action plan

## New

- 5) *Preventing the contractor from adding new Department funded services, contracts, and accepting new Department referrals; and/or*
- 6) Requiring the submission and implementation of a corrective action plan.

# Proposed 4.17.3

## Current

c. The Department will notify the contractor in writing if the corrective action plan is approved or if modifications are required.

1) In the event the Department requires changes to the corrective action plan, the contractor shall submit a revised corrective action plan within five (5) working days of receipt of the Department's notification that changes are required.

## New

c. *Failure of the contractor to submit a written corrective action plan to the Department within the specified timeframes may result in termination of the contract.*

d. The Department will notify the contractor in writing if the corrective action plan is approved or if modifications are required.

1) In the event the Department requires changes to the corrective action plan, the contractor shall submit a revised corrective action plan within five (5) working days of receipt of the Department's notification that changes are required.

# Proposed 5.1.1a

## Current

The provider shall be paid for actual, authorized services provided in accordance with the requirements of the contract. The provider shall be paid in accordance with the applicable rates specified and authorized in the state billing system.

a. The provider is advised to review the contract rate schedule specified in the state billing system prior to providing authorized services. Provision of authorized service(s) by the provider shall be considered acceptance of the rate(s) specified and authorized

## Revised

The contractor is advised to review the contract rate schedule specified in the state billing system prior to providing authorized services. *The contractor should immediately report any incorrect authorizations. Upon verification, incorrect rates or authorizations will be promptly corrected and payment corrected as appropriate.*

The [Provider POS Contract](https://dmh.mo.gov/dev-disabilities/governance/drafts) has been posted for comment and is available for review at <https://dmh.mo.gov/dev-disabilities/governance/drafts>.

We will combine the questions submitted in today's session with any received through public comment and post a Q&A document.

If you have additional comment, please submit to [contessa.isaacson@dmh.mo.gov](mailto:contessa.isaacson@dmh.mo.gov) no later than January 31, 2022.



Improving lives THROUGH  
supports and services  
THAT FOSTER self-determination.